

D/f

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

**MEMORANDUM & ORDER**

-against-

**92-CR-200 (NGG)**

CHRISTOPER MOORE,

Defendant.

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NICHOLAS G. GARAUFIS, United States District Judge.

In an October 12, 2010 memorandum and order ("October 2010 Order"), the court denied Defendant Christopher Moore's motion for reconsideration of a previous resentencing order. (Docket Entry # 428.) Since the October 2010 Order, Moore has sent several letters to the court, asking the court to take note of the Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372 (2010) ("FSA"), which was passed in August 2010. (See Docket Entry ## 431-34.)<sup>1</sup> The court will construe these letters as constituting a further motion for reconsideration, based upon Moore's apparent belief that the court overlooked the FSA in its October 2010 Order. This motion is denied.

As Moore notes in his letters, the FSA effectively reduced the sentencing disparity between crack and cocaine sentences from a ratio of one hundred to one to a ratio of eighteen to one. See United States v. Bannister, No. 10-CR-53 (JBW), 2011 WL 1361539, at \*42 (E.D.N.Y. Apr. 8, 2011). However, "the FSA cannot be applied to reduce [a defendant's] sentence [where] he was convicted and sentenced before the FSA was enacted." United States v. Diaz, 627 F.3d 930, 931 (2d Cir. 2010). Because Moore was convicted and sentenced in 1994 (see October

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<sup>1</sup> The other issues Moore raises in his letters have already been considered upon Moore's numerous post-conviction motions. The court declines to revisit them.

2010 Order at 1), he cannot benefit from the passage of the FSA in 2010. Moore's motion for reconsideration is therefore DENIED.

SO ORDERED.

Dated: Brooklyn, New York  
April 18, 2011

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS  
United States District Judge